

REMARKS/ARGUMENTS

The ratio range added to the claims by the above amendment finds support in the application as filed at claim 8, now canceled, and the remaining portions of the amendment are matters of clarification that do not present new matter. Included in the amendment is the insertion of the expression "in the composition" which addresses the rejection under 35 USC § 112. Withdrawal of this rejection is respectfully requested.

The rejection of the claims as obvious under 35 USC § 103 is likewise addressed by the above amendment, and withdrawal of this rejection is requested as well. As amended, the claims are now limited to a specific combination of oils, namely tagetes oil and thyme oil, in a specified range of ratios. Bessette et al. US 2003/0194454 A1 disclose compositions that comprise rosemary oil or wintergreen oil and optionally other oils (paragraph 0060) including thyme oil or thymol. Tagetes oil is not included in the list, nor is there any disclosure in Bessette et al. that would motivate a person skilled in agricultural chemistry to produce a combination of thyme oil and tagetes oil in the ratio range presently claimed by Applicant. Indeed, Applicant has found that this particular combination of oils displays synergistic insecticidal activity within this range, a result that is illustrated in the Examples of the present specification, in particular Examples 4 and 5. This synergistic effect is entirely unexpected and not obvious over the teachings of Bessette et al. since Bessette et al. fail to include both of these oils in their disclosure. Nor is the deficiency filled by the disclosure of Zocchi et al. US 5,985,814 which, in addition to failing to disclose Applicant's particular combination of oils, addresses carpet cleaning compositions, which reside in an entirely different field from that of the present invention.

Application No. 10/541,740; Marks, inventor
Examiner: Brown, Courtney A.; Art Unit: 1616
Amendment No. 2, Replying to Office Action of February 23, 2009

PATENT

CONCLUSION

In view of the foregoing, Applicant believes all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,



M. Henry Heines
Reg. No. 28,219

TOWNSEND and TOWNSEND and CREW LLP
Two Embarcadero Center, Eighth Floor
San Francisco, California 94111-3834
Tel: 415-576-0200
Fax: 415-576-0300
MHH:mhh
61953788 v1